

NOT INCLUDED
IN BOUND VOLUMES

PGB
Arlington Heights, IL

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
COOK COUNTY SCHOOL BUS
Employer
and Case 13-UD-079769
TEAMSTERS LOCAL 777
Union
and
NATHANIEL MATTHEWS
Petitioner

DECISION AND DIRECTION OF SECOND ELECTION

The National Labor Relations Board has considered objections to a deauthorization election held June 1, 2012, and the hearing officer's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows that, of approximately 24 eligible voters, 11 voted for and 3 against withdrawing the authority of the Union to

require, under its agreement with the Employer, that employees make certain lawful payments to the Union in order to retain their jobs. In addition, there was 1 void ballot.¹

The Board has reviewed the record in light of the Union's and the Employer's exceptions and the Employer's brief, has adopted the hearing officer's findings² and recommendations, and finds that the election must be set aside and a new election held.³

DIRECTION OF SECOND ELECTION

A second election by secret ballot shall be held among the employees in the unit found appropriate, whenever the Regional Director deems appropriate. The Regional Director shall direct and supervise the election, subject to the Board's Rules and Regulations. Eligible to vote are those employed during the payroll period ending immediately before the date of the Notice of Second Election, including employees who did not work during the period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike that began less than 12 months before the date of the first election and who retained their employee status

¹ In a deauthorization election, a majority of the eligible voters must vote in favor of deauthorization in order for the proposition to prevail. *United Cerebral Palsy Assn. of Niagara County*, 327 NLRB 40, 40 fn. 1 (1998).

² The Union has excepted to some of the hearing officer's credibility findings. The Board's established policy is not to overrule a hearing officer's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Stretch-Tex Co.*, 118 NLRB 1359, 1361 (1957). We have carefully examined the record and find no basis for reversing the findings.

³ In accordance with Sec. 102.69(a) of the Board's Rules and Regulations, the Board leaves the matter of whether union steward Robert Hollenbach may serve as an election observer in the second election to the Regional Director's discretion. The Board notes, however, that serving as an election observer is a privilege, not a right. See *Northern Telecom Systems*, 297 NLRB 256, 256 fn. 3 (1989) (citing *Jat Transportation Corp.*, 131 NLRB 122, 126 (1961)). As such, the Regional Director may consider Hollenbach's prior objectionable conduct in the event that he must determine whether Hollenbach may serve as an observer during the second election.

during the eligibility period and their replacements. *Jeld-Wen of Everett, Inc.*, 285 NLRB 118 (1987). Those in the military services may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the payroll period, striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike that began more than 12 months before the date of the first election and who have been permanently replaced. Those eligible shall vote whether they desire to withdraw the authority of Teamsters Local 777 to require, under its agreement with Cook County School Bus, that employees make certain lawful payments to Teamsters Local 777 in order to retain their jobs.

To ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is directed that an eligibility list containing the full names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within 7 days from the date of the Notice of Second Election. *North Macon Health Care Facility*, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. No extension of time to file the list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election if proper objections are filed.

Dated, Washington, D.C., February 12, 2013.

Mark Gaston Pearce, Chairman

Richard F. Griffin, Jr., Member

Sharon Block, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD